STATE OF MICHIGAN

COURT OF APPEALS

CHARLES GEIGER and JUDY GEIGER a/k/a JUDITH GEIGER, Plaintiffs/Counter Defendants-Appellants,	UNPUBLISHED November 19, 2013
v	No. 311482 Huron Circuit Court
MICHAEL C. GEIGER and LISA GEIGER, Defendants/Counter Plaintiffs-Appellees.	LC No. 11-004713-CH

Before: M. J. KELLY, P.J., and CAVANAGH and SHAPIRO, JJ.

PER CURIAM.

Plaintiffs, Charles and Judy Geiger, appeal by right the trial court order that quieted title in the disputed property to defendants, Michael and Lisa Geiger. Because we find that the trial court did not err in finding that defendants had established superior title to the disputed farm, and because the applicable statute of limitations has expired on plaintiffs' claim for a disputed tractor, we affirm.

Defendant Michael Geiger, one of plaintiffs' sons, married defendant Lisa Geiger in 1988. At the time of their marriage, Michael was working on plaintiffs' farm and also farming other land that he rented himself. Soon after he was married, he decided to obtain his own farmland in order to support his family. In the fall of 1990, he spoke to Henry and Margaret Mazure about purchasing their farm. After discussing the prospect with plaintiff Charles Geiger, the Mazures agreed to sell the farm for $200,000. At trial, Michael testified that his father never said or did anything to indicate that he intended to own part of the Mazure farm or that anyone but Michael and Lisa would own the farm. Charles and Judy testified to the contrary, stating that the intention was that the property become part of a "family farm."

On November 21, 1990, a purchase agreement was executed that named Michael, Lisa, Charles, and Judy Geiger as "purchasers" of the Mazure farm for the sum of $200,000. Michael testified that on his father's advice they obtained a loan from Port Hope Bank. The bank requested a $20,000 down payment. Michael provided $10,000 and claimed that his father volunteered the other $10,000. The mortgage and an agricultural security agreement were signed by Michael, Lisa, Charles, and Judy Geiger. The promissory note for $180,000 was signed by

only Michael and Lisa Geiger. Marvin Woodke, then an employee of Port Hope State Bank, testified that this was likely an error, and that the promissory note "should have included all four since the mortgage and the security agreement all included the four names." On December 21, 1990, the Mazures executed a warranty deed transferring title to the farm to plaintiffs and defendants.

Lisa testified that she and Michael have been living on the Mazure farm continuously since February 1992. She also stated that, "We paid for the fuel, the seed, the fertilizer, all the expenses on the farm, every year since we bought the farm." She claimed that, "As far as I know, we've made all the payments" toward the mortgage.

Charles claimed that the early work done on the farm was by himself, his father (Michael's grandfather), and his son Steven Geiger, because Michael was working a job outside of the farm. He further asserted that he provided the equipment, seed, and fertilizer during the "first two years" of the ownership of the Mazure farm. Steven testified that he never helped on the Mazure farm after 1996. The parties eventually had a falling out after several arguments and physical altercations. Charles testified that Lisa kicked him off the Mazure farm and told him, "You're not allowed here anymore." Lisa testified that this incident occurred "right around 1993." Charles admitted that he had not been on the Mazure farm since 1996, at the latest. He further acknowledged that he never received any income from the Mazure farm. The trial court asked Charles whether "all of these things that you said that you provided [to the Mazure farm], was that all before 1996?" Charles responded, "Pretty much, yeah."

A canceled check is in evidence showing that, on April 10, 1986, Charles purchased a 1938 John Deere tractor for $250. Steven stated that he had not seen the tractor since July 1996, when it was hauled to the Mazure farm. He admitted that he had not seen the tractor since 1996 and assumed that it was still located in a shed on the Mazure farm. Michael claimed that he received the tractor as a gift from Charles in 1986, a claim disputed by both Charles and Judy. Michael testified that the tractor has been in a shed at the Mazure farm since 1991. Charles admitted that, to his knowledge, the tractor has remained at the Mazure farm since 1996. Charles acknowledged that he had never taken a previous legal action seeking the return of the tractor.

On February 21, 2011, plaintiffs sued defendants in circuit court, requesting title to half the Mazure farm, i.e., partition, or alternatively, title to the entire farm. Plaintiffs also demanded that defendants vacate the farm and return the 1938 tractor or its monetary value. Defendants counterclaimed, asserting, among other things, that they had obtained superior title to the Mazure farm through adverse possession and that plaintiffs had never taken legal possession of the farm.

A bench trial was held over the course of two days. The parties provided conflicting testimony over who made certain payments toward the mortgage, who provided farm equipment, and who did the majority of the farm work. The court ultimately found for defendants on all claims, ruling "that Plaintiff's request for partition is denied based on the Court's opinion that the Plaintiffs never took possession of the property or, in the alternative, that Defendants obtained the property by adverse possession[.]" The court also ruled "that Plaintiffs' claim for the 1938 G John Deere Tractor is denied and the same is awarded to Defendant, Michael Geiger."

We review de novo a trial court's resolution of an equitable action and its underlying legal conclusions. *Mason v City of Menominee*, 282 Mich App 525, 527; 766 NW2d 888 (2009). The trial court's factual findings are reviewed for clear error. *Jonkers v Summit Twp*, 278 Mich App 263, 265; 747 NW2d 901 (2008). Similarly, we review a trial court's factual findings for clear error and review de novo its conclusions of law following a bench trial. *Id*.

Plaintiffs first argue that the trial court erred by finding that defendants established a superior claim to the Mazure farm through adverse possession. We have explained the doctrine of adverse possession as follows:

> In order to establish a claim of adverse possession, a plaintiff must provide "clear and cogent proof that possession has been actual, visible, open, notorious, exclusive, continuous, and uninterrupted for the statutory period of fifteen years." *Kipka v Fountain*, 198 Mich App 435, 439; 499 NW2d 363 (1993). The 15-year period begins when the rightful owner has been disseised of the land. MCL 600.5829. "Disseisin occurs when the true owner is deprived of possession or displaced by someone exercising the powers and privileges of ownership." *Kipka*, *supra* at 439. In addition, a plaintiff must also show that the plaintiff's actions were "hostile" and "under claim of right," meaning that the use is "inconsistent with the right of the owner, without permission asked or given, and which use would entitle the owner to a cause of action against the intruder." *Wengel v Wengel*, 270 Mich App 86, 92-93; 714 NW2d 371 (2006) (quotation marks and citation omitted). [*Canjar v Cole*, 283 Mich App 723, 731-732; 770 NW2d 449 (2009).]

Plaintiffs and defendants, as two married couples, held the Mazure farm as tenants in common. *Wengel v Wengel*, 270 Mich App 86, 93; 714 NW2d 371 (2006) (holding that "[a]ll conveyances and devises of land made to two or more persons shall be construed to create a tenancy in common, and not a joint tenancy, unless expressly declared to be a joint tenancy[.]"). Michigan courts have acknowledged that "ownership by adverse possession may be obtained by a tenant against his or her cotenant in the context of a tenancy in common." *Id*. at 96; see also *Campau v Campau*, 45 Mich 367; 8 NW 85 (1881). In *Wengel*, we held that

> there is a presumption, in the context of a claim of adverse possession, that a tenant who occupies and possesses the premises recognizes and is honoring the rights of any cotenants to similarly possess and occupy the property unless there is evidence of acts or declarations that clearly establish the contrary and that unambiguously provide notice to the cotenants of an effort to displace or exclude them from the premises in violation of their property rights such that a cause of action arises. [270 Mich App at 97 (citations omitted).]

We agree with the trial court that defendants satisfied the elements of adverse possession, even under the heightened standard incurred by virtue of the tenancy in common. Evidence was presented that defendants farmed the land consistently since they purchased it in 1990. Defendants made, at minimum, the overwhelming majority of the payments toward the mortgage balance, and reaped all the profits from the farm. There is no evidence that anyone besides defendants and their children ever resided on the property. Lisa testified that, in 1993, she

declared, unambiguously, that plaintiffs were to leave the Mazure farm and never return. Charles Geiger admitted that any activities he performed on the property for his own benefit occurred before 1996. The instant action was filed in February 2011; accordingly, the 15-year statutory period for adverse possession began in February 1996.

Plaintiffs allege several facts that purportedly defeat defendants' claim of adverse possession. To the extent these factual allegations would defeat defendants' claim, they were denied or rebutted by defendants' testimony at trial. Virtually every allegation made by plaintiffs regarding which parties did the most farming, provided equipment and seed, and were present on the property was contradicted by defendants. Therefore, the factual determinations necessary to establish that defendants adversely possessed the Mazure farm for 15 years were questions of witness credibility reserved for the trier of fact, in this case, the trial court. See *Drew v Cass Co*, 299 Mich App 495, 502; 830 NW2d 832 (2013). The trial court clearly found defendants' testimony more credible than that of plaintiffs. The trial court's factual findings were supported by defendants' testimony, were not clearly erroneous, and established the elements of adverse possession. Accordingly, we find that the trial court did not err by finding that defendants had established a superior claim to the Mazure farm by adverse possession.[1]

Plaintiffs next argue that the trial court erred by reforming the deed to the farm by removing plaintiffs' names. Plaintiffs appear to argue that defendants never "asked" the trial court to reform the deed. This argument is without merit. First, defendants explicitly requested that "the Court enter a judgment basically reforming the deed or at least a judicial deed giving full title to the – to the defendants in this matter[,]" rendering this issue properly preserved. See *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005). Further, the trial court never actually ordered that the deed be reformed. From the bench, the court stated that it "will issue a – an order clearing title to [defendants] and removing the names of plaintiffs in this case." However, a court speaks only through its written orders. See *In re Leete Estate*, 290 Mich App 647, 658; 803 NW2d 889 (2010). Here, the court's written order stated that, "the Court orders that the *title* shall be cleared by removing the names of the Plaintiffs in this case" and that "this Judgment may be recorded with the Register of Deeds to show the change in ownership" (Emphasis added). Thus, contrary to plaintiffs' assertion, the court did not actually reform the deed, but rather merely quieted title to defendants. Even if this constitutes error, it is not reversible. As discussed above, the trial court did not err in quieting title to defendants on the basis of adverse possession, making them the sole legal owners of the Mazure farm. And, we will not disturb a lower court ruling even if it reached the right result for the wrong reason. *Miller-Davis Co v Ahrens Constr, Inc* (*On Remand*), 296 Mich App 56, 70; 817 NW2d 609 (2012).

Lastly, plaintiffs argue that the trial court erred by finding that plaintiffs' claim to the 1938 tractor was barred by the statute of limitations. An action to recover the possession of

[1] Because we find that defendants established a superior claim to the farm through adverse possession, we need not address the trial court's alternative finding that plaintiffs never took possession of the Mazure farm.

goods or chattels, commonly known as "replevin," may be maintained under MCL 600.2920(1), which provides, in relevant part:

> A civil action may be brought to recover possession of any goods or chattels which have been unlawfully taken or unlawfully detained and to recover damages sustained by the unlawful taking or unlawful detention . . . .

It is undisputed that Charles Geiger originally purchased the tractor in 1986. Whether Charles actually gifted the tractor to Michael or merely gave him possession is ultimately irrelevant. Charles admitted that he had not seen the tractor since at least 1996, and that the tractor has been housed in a shed on the Mazure farm. MCL 600.5813 provides that, "All other personal actions shall be commenced within the period of 6 years after the claims accrue and not afterwards unless a different period is stated in the statutes." The replevin statute, MCL 600.2920, does not contain a specific statute of limitations. Accordingly, the general six-year limitations period of MCL 600.5813 applies. Plaintiffs filed the instant suit in February 2011, at least 15 years after Charles admitted he had last seen the tractor, much less had it in his possession. Thus, the trial court properly noted that plaintiffs' claim to the tractor is barred by the applicable statute of limitations.

Affirmed.

/s/ Michael J. Kelly
/s/ Mark J. Cavanagh
/s/ Douglas B. Shapiro